IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1173/07

Arun Kumar **Versus** State & Anr.

DATE OF ORDER :: 23/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Kawal Singh Loha, for petitioner
Mr. Arun Sharma, Public Prosecutor for State
Mr. H.S. Khandelwal for Mr. M.M. Ranjan, for respondent

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This is one of frivolous petitions filed in this court. Present petitioner has been convicted for an offence committed u/s.138 of Negotiable Instrument Act and sentenced to one year SI and fine of Rs.80,000/- vide judgment dated 13th September, 2005 - against which he preferred appeal. During its pendency, he moved application in which objection was raised that the Officer who has passed the judgment impugned in appeal dt.13th September, 2005, who undisputedly according to petitioner is working as Additional Chief Judicial Magistrate [Economic Offence], Jaipur City, Jaipur. But, so far as seal is concerned, he has been shown to be Judicial Magistrate [Economic Offence], Rajasthan, Jaipur and since a proper seal has not been affixed by the Officer who has passed the judgment impugned in appeal, it cannot be considered to be a judgment in the eye of law. This objection was

over-ruled by learned appellate judge vide order dated 19th July, 2007. The same objection has been raised by counsel for petitioner in the instant petition as well and his sole objection is that seal which has been affixed below the name of Officer who has signed the judgment makes him incompetent despite the fact that he is the Presiding Officer who has heard and holding post of Additional Chief Judicial Magistrate [Economic Offence], Jaipur City, Jaipur. Such objection, in opinion of this court, is wholly frivolous, particularly, when this fact has not been disputed that the Officer who has signed the judgment is a Presiding Officer of the Court in question.

Consequently, this Court finds no substance in the misc. petition, the same stands dismissed and for filing such frivolous petition, this court imposes cost of Rs.1,000/- upon petitioner which may be recovered from him and the appellate court may ensure with regard to recovery of cost imposed by this court and copy of this order be sent to learned appellate judge as well.

[AJAY RASTOGI],J.